



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-2713

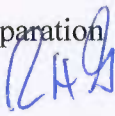
MARY C. WICKHAM
County Counsel

July 28, 2016

TELEPHONE
(213) 974-1609
FACSIMILE
(213) 626-2105
TDD
(213) 633-0901
E-MAIL
rgranbo@counsel.lacounty.gov

TO: LORI GLASGOW
Executive Officer
Board of Supervisors

Attention: Agenda Preparation

FROM: ROGER H. GRANBO 
Senior Assistant County Counsel
Executive Office

RE: **Item for the Board of Supervisors' Agenda**
County Claims Board Recommendation
Gonzalo Martinez v. County of Los Angeles, et al.
United States District Court Case No. CV 14-5456 DSF

Attached is the Agenda entry for the Los Angeles County Claims Board's recommendation regarding the above-referenced matter. Also attached are the Case Summary and Summary Corrective Action Plan to be made available to the public.

It is requested that this recommendation, the Case Summary and the Summary Corrective Action Plan be placed on the Board of Supervisors' agenda.

RHG:scr

Attachments

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Los Angeles County Claims Board's recommendation: Authorize settlement of the matter entitled Gonzalo Martinez v. County of Los Angeles, et al, United States District Court Case No. CV 14-5456 DSF in the amount of \$2,800,000 and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Sheriff's Department's budget.

This lawsuit concerns allegations of civil rights violations and excessive force when Plaintiff was shot while he was a backseat passenger in a vehicle that was trying to flee from Sheriff's Deputies.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Gonzalo Martinez v. County of Los Angeles, et al.
CASE NUMBER	CV 14-5456 DSF
COURT	United States District Court
DATE FILED	October 9, 2014
COUNTY DEPARTMENT	Sheriff's Department
PROPOSED SETTLEMENT AMOUNT	\$ 2,800,000
ATTORNEY FOR PLAINTIFF	Law Offices of Sarah L. Garvey Law Offices of Darrell J. York Law Offices of Dale K. Galipo
COUNTY COUNSEL ATTORNEY	Jonathan McCaverty Principal Deputy County Counsel
NATURE OF CASE	<p>This is a recommendation to settle for \$2,800,000, inclusive of attorneys' fees and costs, a federal civil rights lawsuit filed by Gonzalo Martinez arising out of an August 4, 2013 shooting that resulted in Mr. Martinez losing his left eye.</p> <p>Due to the risks and uncertainties of litigation, a reasonable settlement at this time will avoid further litigation costs. Therefore, a full and final settlement of the case in the amount of \$2,800,000 is recommended.</p>
PAID ATTORNEY FEES, TO DATE	\$ 69,490
PAID COSTS, TO DATE	\$ 79,536

Case Name: Gonzalo Martinez v. County of Los Angeles, et al



Summary Corrective Action Plan

The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

Date of incident/event:	August 4, 2013, Approximately 12:15 am
Briefly provide a description of the incident/event:	<p><u>Gonzalo Martinez v. County of Los Angeles, et al.</u> Summary Corrective Action Plan 2016-004</p> <p>On Sunday, August 4, 2013, at approximately 12:15 am, Los Angeles County deputy sheriffs assigned to the Pico Rivera Sheriff's Station were traveling south on Rosemead Boulevard¹ passing Shenandoah Avenue, when they observed a male spray painting graffiti on a cinder block wall adjacent to the sidewalk on the west side of Rosemead Boulevard.</p> <p>A white, 2005 Chrysler 300 was parked a few feet away from the individual, on the west curb line of Rosemead Boulevard, facing south. The deputies immediately stopped their vehicle along the southwest corner of Rosemead Boulevard and Shenandoah Avenue. Knowing the inherent danger of contacting gang members and graffiti crews, they drew their weapons while simultaneously ordering the man to stop moving and show his hands to them.</p> <p>As the deputies approached the individual, they noticed that the vehicle's motor was running, and a man was in the driver's seat. The deputies continued to order both men not to move and show them their hands. The man standing at the wall ignored these commands, and instead ran toward the vehicle and dove into the open front passenger side window.</p> <p>Almost immediately, the driver of the vehicle accelerated toward one of the deputies. The deputy attempted to step out of the vehicle's path, but the driver deliberately steered the vehicle toward the retreating deputy while continuing to accelerate.</p> <p>Fearing for his life and while still retreating, the deputy fired four rounds from his duty weapon toward the driver of the vehicle in an attempt to stop the assault.</p> <p>The driver stopped his advance and immediately made a sharp turn to the left, away from the deputy and continued south on Rosemead Boulevard. Shortly after, the driver pulled back to the right and stopped the vehicle along the west curb line of Rosemead Boulevard, several feet south of the deputies.</p> <p>The deputies took cover behind their patrol vehicle and transmitted emergency radio traffic for assistance. Additional deputies quickly arrived</p>

¹ Rosemead Boulevard has a flat, raised center median that is approximately six inches high and one and a half feet wide which separates the northbound and southbound lanes of traffic.

	<p>at the location, and each occupant² was ordered out of the vehicle and taken into custody, one at a time.</p> <p>Three of the four occupants of the vehicle complied with the deputies' commands. The fourth occupant, the plaintiff, was a passenger in the rear seat of the vehicle. The plaintiff did not respond to commands to exit the vehicle. The three detained occupants told deputies the plaintiff had been shot and was unable to comply.</p> <p>The deputies confirmed via radio that a Los Angeles County Fire Department Paramedic Unit had responded to an area one block away from the scene, and was waiting for notification that the scene was safe to enter.</p> <p>Deputies also checked on the response time of a Department K9 unit that was already en route to the location. The K9 unit reported that it was minutes away from scene.</p> <p>On scene deputies waited for the arrival of the K9 unit before conducting a tactical approach to the vehicle. They contacted the plaintiff in the rear seat of the vehicle and discovered he was suffering from a gunshot wound to the face, specifically to his left eye.</p> <p>The plaintiff was transported to a local hospital by paramedic personnel for treatment of his injury.</p>
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1. Briefly describe the **root cause(s)** of the claim/lawsuit:

The **department** root cause of this incident was the accidental shooting of the plaintiff (a rear vehicle passenger) as one deputy sheriff feared for his life and deployed deadly force against a vehicle's driver who drove his vehicle directly at the deputy sheriff as he attempted to move out of the vehicle's path.

The **non-department** root cause of this incident was the vehicle's driver who failed to comply with the deputy's orders and drove his vehicle directly at the deputy sheriff.

2. Briefly describe recommended corrective actions:
(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

The Los Angeles County Sheriff's Department had relevant policies and procedures in place and in effect at the time of the incident. The Los Angeles County Sheriff's Department's training curriculum addresses the circumstances which occurred during the incident.

The incident was investigated by the Los Angeles County Sheriff's Department's Homicide Bureau to determine if any criminal misconduct occurred.

The results of their investigation were presented to the Los Angeles County District Attorney's Office. On July 2, 2014, the Los Angeles County District Attorney's Office concluded the deputy sheriff involved in the incident acted lawfully in self-defense when using deadly force against the plaintiff.

The District Attorney's office reviewed the allegations against the tagger and the driver of the white vehicle. Both individuals were tried and convicted on December 1, 2014, of vandalism at jury trial and sentenced to three years formal probation and ninety days in the Los Angeles County jail.

² The vehicle had four occupants, the driver, the front passenger who was seen writing graffiti on the wall, and two rear passengers, one of which was the plaintiff.

The incident was investigated by the Los Angeles County Sheriff's Department's Internal Affairs Bureau to determine if any administrative misconduct occurred before, during, or after the incident.

On June 18, 2015, the results of the administrative investigation were presented to the members of the Los Angeles County Sheriff's Department's Executive Force Review Committee. The members of the committee determined the use of deadly force and tactics were within Department Policy.

This incident involved the confrontation of a man caught in the act of spray painting graffiti (tagging). Taggers are known to be violent, armed, and frequently shoot at those who confront them. Because the deputies unexpectedly observed the crime as it was occurring, they were not in the best tactical position when they contacted the tagger. It was late at night and the crime was committed under the cover of darkness. They needed to cover potential threats from both the tagger and the vehicle, until they could determine if the vehicle was occupied or not. While each situation is different and dynamic due to its own unique factors, both deputies were found to be well within policy when they immediately drew their weapons upon contact with the tagger.

The Department's Field Operations Support Services worked in conjunction with the Tactics and Survival Unit (TAS) to create a new Newsletter titled "Running And Gunning." This newsletter addresses the risks and hazards to of moving and shooting and how it affects accuracy.

County of Los Angeles
Summary Corrective Action Plan

3. Are the corrective actions addressing Department-wide system issues?

- ☐ Yes – The corrective actions address Department-wide system issues.
☒ No – The corrective actions are only applicable to the affected parties.

Los Angeles County Sheriff's Department

Name: (Risk Management Coordinator)

Scott E. Johnson, Captain
Risk Management Bureau

Signature:



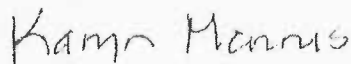
Date:

5-27-16

Name: (Department Head)

Karyn Mannis, Chief
Professional Standards Division

Signature:



Date:

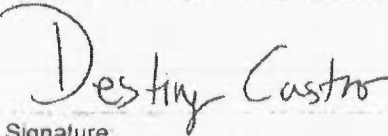
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Chief Executive Office Risk Management Inspector General USE ONLY

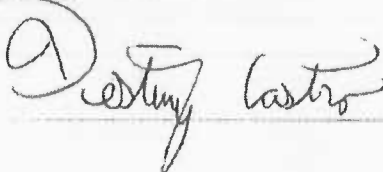
Are the corrective actions applicable to other departments within the County?

- ☐ Yes, the corrective actions potentially have County-wide applicability.
☒ No, the corrective actions are applicable only to this Department.

Name: (Risk Management Inspector General)



Signature



Date:

6/1/2016